

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 \* \* \*

9 GISTARVE RUFFIN, JR.,

Case No. 3:16-cv-00157-MMD-VPC

10 Petitioner,

ORDER

11 v.

12 ISIDRO BACA, *et al.*,

13 Respondents.

14 Before the Court is petitioner Gistarve Ruffin, Jr.'s motion for appointment of  
15 counsel in this 28 U.S.C. § 2254 habeas corpus petition (ECF No. 1-3). There is no  
16 constitutional right to appointed counsel for a federal habeas corpus proceeding.  
17 *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428  
18 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v.*  
19 *Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor*  
20 *v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However,  
21 counsel must be appointed if the complexities of the case are such that denial of counsel  
22 would amount to a denial of due process, and where the petitioner is a person of such  
23 limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d  
24 at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). Here, Ruffin's petition  
25 is sufficiently clear in setting forth his claims, and the legal issues do not appear to be  
26 complex. Therefore, Ruffin's motion for counsel is denied.

27 It is therefore ordered that the Clerk detach and file the motion for appointment of  
28 counsel (ECF No. 1-3).


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

It is further ordered that the motion for appointment of counsel is denied.

It is further ordered that petitioner must file his response to respondents' motion to dismiss, if any, within thirty (30) days of the date of this order.

It is further ordered that respondents' motion to file petitioner's presentence investigation report under seal (ECF No. 11) is granted.

DATED THIS 9<sup>th</sup> day of February 2018.

  
MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE